

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE

v.

GERRON LINDSEY

Defendant

I.D. NO. 0002019767

MOTION FOR CONTINUANCE

NOW COMES Defendant by and through his attorney, Anthony A. Figliola, Jr., and respectfully requests a continuance of his November 7, 2001 Trial date. In support of this Motion the following is offered.

1. Gerron Lindsey is charged with the Murder of Jayendra Modi (2 counts) and the attempted Murder of Pravina Modi.
2. Additional charges include PFDCF (5 counts) PDWPP (2 counts) and Robbery 1 (2 Counts)
3. He was reindicted on these charges October 23, 2001.
4. The State is seeking the death penalty.
5. Joseph Gabay, Esquire was assigned as co - counsel and was preparing the defendants case in mitigation if he was in fact found guilty of Murder First Degree.
6. Mr. Gabay began having Medical problems around Labor Day, 2001, but ignored same and attempted to work.
7. Plea negotiations with the State indicated that a resolution of the case might be possible.

8. Towards the end of September, 2001, Mr. Gabay sought medical treatment for his problems and continues under the care of a Physician

9. In mid October Mr. Gabay was advised that it would be in his best interest to deal in matters less stressful than Capital Murder cases.

10. On or about October 16, 2001 counsel asked Judge Richard Gebelein to assign Sheryl Rush - Milstead, Esquire as co - counsel to handle the mitigation case for Gerrat Lindsey in the event Mr. Gabay was not medically available.

11. Ms. Rush - Milstead, Esquire has been assigned as co - counsel.

* 12. On October or about October 18, 2001, counsel received a letter from defendant requesting in part that new counsel be appointed, Mr. Lindsey was not satisfied that we were acting in his best interest by recommending a plea.

13. Counsel wrote to Mr. Lindsey and informed him that counsel was in fact looking out for his interests and further informed him of Mr. Gabay's illness and the possibility of either new counsel or a request for a continuance or both being appointed or granted.

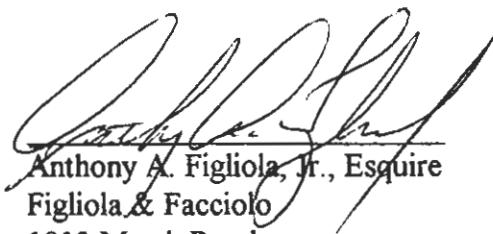
14. On or about October 23, 2001, Mr. Gabay informed counsel that he would be unavailable for November 7, 2001.

15. On or about October 23, 2001, Sheryl Rush - Milstead, Esquire informed counsel that she was unavailable for November 7, 2001 and even if available would be unable to put a mitigation case together in such a short period.

16. On or about October 24, 2001 counsel consulted with the prosecution and informed them of the problems. Counsel indicated that he would be in a position to go forward if the State would not seek the Death Penalty, the State assured me they would not drop their request for death if the Defendant were found guilty.

17. The mitigation case for Gerron Lindsey is not ready and cannot be properly prepared for trial by November 7, 2001.

WHEREFORE, Defendant prays that his request for a continuance of the November 7, 2001 trial be granted.



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cc: Joseph A. Gabay, Esquire
Sheryl Rush - Milstead, Esquire
Gerron Lindsey

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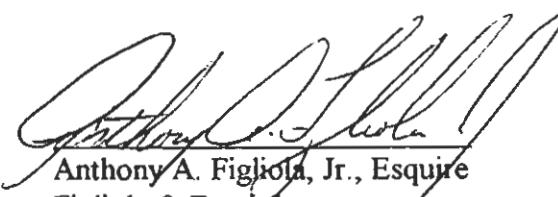
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AFFIDAVIT OF SERVICE

I, Anthony A. Figliola, Jr., am an attorney licensed to practice law by the Supreme Court of the State of Delaware . On October 29, 2001, I personally handed copies of Defendants Motion to the Prosecution as follows:

TO: Stuart E. Sklut, Esquire
Deputy Attorney General
820 N. French Street
Wilmington, DE 19899

Donald Roberts, Esquire
Deputy Attorney General
820 N. French Street
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ORDER

The Defendant's Motion to continue his November 7, 2001, Capital Murder Trial, having been heard and considered it is hereby _____

SO ORDERED this _____ day of _____, 2001.

Judge Haile L. Alford